Secta. II-27—100,000—21-3-42.

REVENUE 1943 Department

SERIES.

G.O. No. 56 630

Dated 20-3-1943

[Despatch Abstract.]

Stamp duty - Article 55 of Schedule IA of the Indian Stamp Act - Gifts for charitable and religious purposes - Duty reduced to one half of the duty leviable on instruments of gift - (Article 28) - Notification - Published.

GOVERNMENT OF MADRAS

ABSTRACT.

STAMP DUTY - Article 28 of Schedule I A of the Indian Stamp Act - Gifts for charitable and religious purposes - duty reduced to one half of the duty leviable on instruments of gift - (Article 28) - Notification - Published.

REVENUE DEPARTMENT.

G.O.MS.NO.639. DATED 20-3-1948.

Read:-

ORDER:

The notification appended to this order will be published in the Fort St.George Gazette.

(BY ORDER OF HIS EXCELLENCY THE GOVERN)

G. VENKATESWARA AYYAR,
Secretary to Government.

To
The Board of Revenue.
The Inspector General of Registration.
All Collectors.
The Accountant-General.
The Superintendent, Government Press for publication of Notification

/True Copy/

APPENDIX.
NOTIFICATION.

In exercise of the powers conferred by section 9(a) of the Indian Stamp Act, 1899 (Central Act II of 1899), His Excellency the Governor of Madras hereby makes the following amendments to Revenue Department Notification No. 13, dated the 17th December 1938, published at pages 20-22 of Part I of the Fort St.George Gazette dated the 10th January, 1939, as subsequently amended.

AMENDMENTS.

In the said notification:-

(1) for the figures and word -"51, 59, 71, 72 and 85" occurring in the preamble, the figures and word "51, 59, 71, 72, 85 and 86" shall be substituted.

(2) after item 85, the following item shall be substituted namely:-

"86. All gifts for charitable or religious purposes Duty reduced to one half of the duty leviable on instruments of gift - (Article 28)"

/True Copy/ 1.4.37

:E ASSISTANT.
MADRAS RECORD OFFICE.

KP/4/2/-.

N O T E F I L E.

Revenue Department

Stamp duty - Article 28 of Schedule I-A of the Indian Stamp Act - Gifts for charitable and religious purposes - Duty to be reduced to the amount of duty chargeable prior to the passing of the Madras Stamp (Increase of Duties) Act 1943 - (Expect from file C.No. 1319 J/47 dealing with the reenactment of the Madras Act XVI of 1943.

H.M. (Edn.) raised the question this morning whether the stamp duty on instruments gifting property to charitable, religious and educational institutions will be raised by this bill. In the first place, this bill seeks only to enact a governor's Act of 1943 passed during the S. 93 situation. There are no fresh increases here. The stamp duty on all gifts (including those in favour of religious educational and c. institutions) was doubled in 1943. Gifts come under Art. 28 in Schedule IA of the Stamp Act. Under S. 29 of the Stamp Act there is no legal liability on the part of any particular person to bear the stamp duty in the case of Gifts. In other words the person making the gift can pay the stamp duty also and the extra burden will not be appreciable.

G.V. 6-11-47.

I understand that the Stamp duty on all deeds including those involving religious, educational or charitable institutions was doubled in 1943. That is found to be a great hardship. In fact, the Stamp duty itself in certain cases has acted as a bar for some people making permanent endowments. I suggest that this stamp duty must be put back to pre-1943 rates. Otherwise, the bill may be approved.

T. S. A. 7-11-47.

To A.S.

This file relates to the re-enactment and continuance after 29-4-1948, as an Act of the Legislature, of the Madras Stamp (Increase of Duties) Act, 1943, which is a Governor's Act passed under the section 93 situation. In july 1947, H.M.(L.R.) and H.M.(Fin) agreed that the Act should be reenacted. A copy of the memorandum will be found on pages 10-12 c.f. This was circulated to H.Ms. Home, L.R. and Finance and to H.P.M. and H.E. the Governor. They all agreed to the legislation being undertaken on the lines proposed in the memorandum. With reference to Secretariat Instruction 32 (2) copies of the memorandum were taken and circulated to all the remaining H.Ms. on 1-10-1947, for recording their opinion on the question. H.M.(Education) has suggested that "gifts", be excluded from the scope of the Act. He agrees otherwise to the proposals contained in the memorandum. His views are extracted below:-

"I understand that the stamp duty on all deeds including those involving religious, educational or charitable institutions was doubled in 1943: That is found to be a great hardship. In fact, the stamp duty itself in certain cases has acted as a bar for some peopbe making permanent endowments. I suggest that this stamp duty must be put back to pre-1943 rates. Otherwise, the bill may approved". All the other Ministers are in favour of undertaking legislation on the lines proposed in the memorandum. With reference to the rate of stamp duty on gifts works out to only 3% of the value of the property gifted. This, it appears cannot be said to be an undue burden on thedonor. It is for orders whether in re-enacting the Act, Article 28 of Schedule I-A of the Stamp Act should be excluded from section 2 thereof

2. The orders of H.M.(L.R.), H.M.(Fin) and H.P.M. may be taken on the point. Finance may see before circulation.

L.S.R., 20-11-47.
G.V., 21-11-47.

Finance (Act.A)Dept.

(Previous Finance note on p.1 above).

Please see the typed notes from p2 above.

Submitted that Finance may agree with the views of Revenue at 'A' on p.2 above.

Revenue propose to circulate the case to H.M.(Finance).

D.W.D., 27-11-47.

Revenue Department.

Notes from X on pages 2 above. Circulated for orders on B on page 2 ante.

L.S.R. 0-11-47.

H.M.(L.R.) K.V.R.
H.M.(Fin) B.G.R.
H.P.M. - all the gifts for charitable and Religious purposes may be taxed at the pre 1943 rate. /A-

O.P.R.
12/12/47.

Revenue Department

Please see the orders in circulation above.

2. The file may be sent to legal for further action with reference to Secretariat Instruction 32 (3)

L.S.R.13-12-47.

Legal Department.

May it be presumed that the other H.Ms. have agreed to the Hon'ble the Premiers proposal at A above? It would appear that H.M.(L.R) and H.M. (Fin) have agreed with the view expressed by Revenue and Finance Departments viz., that no concession is necessary in regard to gifts for chariatable and religious purposes?

K.V.R. 15-12-47.

Revenue Department

Please see the Legal Department note above.

2. In the note above orders were taken on the portion marked B' on page 2 ante (viz) whether in reenacting the Madras Stamp (Increase of Duties) Act, 1943, Article 28 of Sch. IA should be excluded from section 2 thereof. This was agreed to by H.M. (L.R.) and H.M.(Fih) and as such it seems unnecessary to circulate the file again to them with reference to the minute of H.Pr. at 'A' on p.3 ante which in effect is the same as the proposal at B on page 2 ante.

The file may be returned to Legal.

P.R. 17-12-47. G.R.17-12-47.

It is not clear whether H.M.(L.R) and H.M.(Finance) hold the same view as that expressed by the Hon'ble Premier viz., that in regard to gifts for charitable and religious purposes, the rates that obtained prior to 1-10-43 should be levied. The file may again be circulated to H.M. (L.R.) and H.M.(Fin) to state whether they agree with the view expressed by Hon'ble Premier. For orders on 'A' above.

P.A. 20-12-47. P.S.V. 23-12-47

H.M. (L.R.)'A' agreed.
K.V.R. 23-12-47.
H.M. (Fin)

I agree only when the charity is unconditional and unrestricted.

I am unable to understand what exact is a religious purpose.

I would like to see the drafting when it is ready.

B.G.R . 26-12-47.

Revenue Department.

Gifts may be made for religious purposes also, e.g. worship of a deity in a temple or for Vedaparayana, etc., etc.; It is not clear whether H.M. (Fin.) wants to exclude gifts for religious purposes as such.

The file may be circulated to H.M.(L.R.) and Hon'ble the Premier for orders with reference to the minutes of H.M. (Fin.) at 'K' above.

P.A. 6-1-48. G.V.7-1-48.

H.M.(L.R.) K.V.R.8-1-48.

L.R.

Religious purposes can be easily defined as suggested in the note above.

O.P.R. 12-1-48.

Please see orders in circulation of H.M.(L.R.) and the Hon'ble Premier at p.4 above. The intention of H.M.(L.R.) and the Hon'ble Premier seems to be that all gifts for charitable and religious purposes should be taxed at pre-1943 rates and that no distinction should be made whether the charity is conditional or unconditional. Attention is invited to Instruction 30(c) of the Secretariat Instructions at p. 22 of the Madras Government Business Rules and Sectt. Instructions.* The file may now be sent to H.M.(Fin.) for perusal before it is sent to Legal Department for further action with reference to Secretariat Instruction 32(3).

P.A.15-1-48. G.V.16-1-48.

H.M.(Fin).

I do not want any exclusion. Religious purpose seems to me to be very vague.

Legal Secretary may discuss with me after he finishes the drafting and explain to me how he defined the term.

B.G.R. 18-1-48.

The file may be sent to Legal Department.

P.A. 19-1-48.

G.V. 19-1-48.

Legal Department.

As only some gifts, viz., those for charitable of religious purposes are to bear stamp duty at the pre-1943 rates, it would be simpler to achieve the object in view by issuing a rule or an order under section 9(a) of the Stamp Act, 1899. The advantage of adopting this course is that the rule or order may be easily varied, in the light of subsequet experience. Thus even if conditional or unconditional gifts are now exempted (a matter on which H.Ms. do not seem to be agreed) it will be open to us to alter the exemption later, if we so desire, by issuing a fresh rule or order, Any defect in the definitions of the experessions "charitable purpose" and "religious purpose" may also be set right without recourse to legilsation. | R

It is therefore sugggsted that Madras Act XVI of 1943 may be re-enacted in its present form, and that a rule or an order may be issued under section 9(a) of the Stamp Act, exempting gifts for charitable of religious purposes, from a moiety of the stamp duty now payable. | M

K.V.R. 21-1-48.

Discussed with H.M.(Finance) as desired by him. A satisfactory definition of "charitable" has not yet been evolved. In view of the difficulties involved, he agrees with the suggestion of the L.S. that the favourable treatment which Hon'ble Premier desires to give to religious and charitable institutions may be accorded by rules. This appears to be the most practicable way of doing it.

(Secy.Legal Dept).
22-1-48.

Revenue Department.

Please see the Legal Department note above.

2. With reference to 'k' on p.5 ante relevant extracts may be taken from this file for the issue of an order under Section 9(a) of the Stamp Act as suggested at 'M' on page 4 ante. The issue of such an order need not perhaps await the re-enactment of the Madras Stamp (Increase of Duties) Act, 1943, as the order will not be affected by the re-enactment.

3. The file may be sent to Legal (after extracts have been taken) for further action under Secretariat Instruction 32(3).

P.A..23-1-48. P.S.V. 23-1-48.

Revenue Department.

To A.S.

Please see the extracts of notes at pp 1-6 above. With reference to 'M' and 'K' on page 5 ante. a draft order is submitted for approval. It may be sent to Legal for scrutiny. It is presumed that it is unnecessary now to define in the order to be issued under Section 9(a) of the "gift, for charitable or religious purposes" Indian Stamp Act, 1899 - please see the portions marked 'R' and 'K' on p. 5 ante).

The draft below may be sent to Legal on secrutiny of the notification and to Education and Public Health, Firka Development and Finance for perusal.

Sd..6-2-48.

I find it impossible to ascertain the preeise import of the notification in view of the numerous correction slips in Bk No. 118. Superintendent or Assistant Secretary had better come and explain to me.

A.S. has explained. The draft is for acceptance Sd..7-2-48. S. G+P H, F.D. Fin

Legal Department.

The sligt alterations indicated in red ink on the draft notification may be made.

Legal u.o. 1485/48-1
13-2-48

Sd...1-2-48.

Education Public Health.

Submitted Missent.

This may be sent to Firka Development Dept No.

B.M. 16-2-48.

Firka Development.

May be perused and the file sent on to Finance u.o.

Sd....

F.D. u.o. 629/48-1
1-3-48

Finance (AA)Department.

The extract of notes and orders in circulation from page 5 above and the draft order below may be perused and the case returned to Revenue.

H.M(Fin)may see.
Sd.5-3-48.

Fin. u.o. 13698 AA
5-3-48

Revenue Department.

To A.S.

This file deals with the proposal for the reduction of stamp duty on all gifts for charitable or religious purposes.

2. The draft order below as amended by Legal may issue.

The draft order is based on the orders already passed in circulation. The file may however be circulated agin to H.M.(L.R.) and H.M.(Fin.) with reference to the note of Finance at 'X' on p. 7 ante.

Sd..13-3-48.

H.M.(L.R.) Sd..18-3-48.
H.M.(Fin) Sd.B.G.A.19-3-48.

/True Copy/

S. Jayaraman
1.4.54

OFFICE ASSISTANT.
MADRAS RECORD OFFICE.

KP/4/2-.